

**REMARKS:**

**AMENDMENTS TO THE SPECIFICATION:**

The Specification has been amended at page 2 to more clearly claim benefit of priority. No new matter is being added by this amendment. Applicants respectfully note that the Request for Filing Divisional Application dated November 13, 2001, at item 11, recited this information as well.

The specification has been amended at page 41, in the Description of Drawings, to more clearly describe FIG. 1, and to describe by SEQ ID NO: the sequences of figures 1-3 as suggested by the Examiner. Applicants respectfully submit that no new matter has been added by this amendment.

**AMENDMENTS TO THE CLAIMS:**

**I. Claim Cancellation**

Please cancel claims 1-14, 18-24, and 31-32 without prejudice.

**II. Summary of Amendments**

Claims 15-17, 25, 28-29, and 33-34 are amended; claims 1-14, 18-24, 27, and 30-32 are cancelled without prejudice; and claims 15-17, 25-26, 28-29, and 33-34 are pending following entry of this Amendment. The above noted amendments to the claims have been made so that the scope and language of the claims is more precise and clear in defining what the applicants consider to be their invention. Applicants respectfully submit that no new matter is introduced by the proposed amendments to the claims.

Specifically, claim 15 is amended to more specifically claim the applicants invention; support for this amendment is found in the claims as originally filed. Claims 16-17 are amended as suggested by the Examiner. Claim 25 is amended to more clearly claim the applicants' invention, and largely as suggested by the Examiner. Claims 28-29 have been amended as

suggested by the Examiner. Claims 33-34 have been amended, largely as proposed by the Examiner.

### **III. Claim Objections**

Claim 26 was objected to as being dependent upon a rejected base claim (claim 25). As claim 25 has been rewritten in a form believed to be allowable, applicants respectfully submit that claim 26 is allowable as well.

Claims 16-17, 25, 28, and 29 have been amended as suggested by the Examiner to remove several noted informalities. In view of this, applicants respectfully request that the objections to these claims be removed.

Claim 34 has been amended in view of the Examiner's objection. The phrase "from a member" has been added. Support for this may be found in the specification at page 6, line 26. Applicants respectfully request that the objection to this claim be removed.

### **IV. Claim Rejections- 35 USC § 112**

Claims 14, 17, 25, 28-29, and 33-34 have been rejected under 35 USC 112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claim 14 has been cancelled. Claims 17, and 28-29 have been amended as suggested by the Examiner. Claims 25 and 33 have been amended largely as suggested by the Examiner.

Claim 25 has been amended and no longer refers to FIG. 1. The addition of the phrase "SEQ ID NO:10 from position 92 to position 307" has been added. Support for this phrase is found in the specification. Specifically, the open reading frame coding for an antifungal polypeptide noted in FIG. 1 corresponds to bases 92-307 of SEQ ID NO:10. Additionally, occurrences of "about" have been deleted as suggested by the Examiner.

In claim 33, the language "controlling" has been retained at line 1, as applicants respectfully submit that such language is specifically defined in the specification at page 43, lines 19-22. Claim 33 has otherwise been amended as suggested by the Examiner. In view of this, applicants respectfully submit that the pending claims are in condition for allowance.



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## **V. Written Description**

Claims 14, 25, and 28-29 have been rejected under 35 USC 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art at the time of filing that the inventors had possession of the claimed invention. As noted above, claim 14 has been cancelled. Claim 25 has been amended. Applicants submit that claims 25 and 28-29 are now allowable.

The claims and amended claims are believed to be distinct and patentable over the art of record and therefore applicants respectfully request their entry and allowance by the Examiner.

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The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 01-2508, referencing Order No. 11899.0193.DVUS02.



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In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,

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